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SUMMARY RECORD OF THE 56th MEETING

Chairman: Mr. AL-SHAALI (United Arab Emirates)

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The meeting was called to order at 3.25 p.m.

AGENDA ITEM 98: HUMAN RIGHTS QUESTIONS (continued)

(c) HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Draft resolution A/C.3/46/L.43

1. The CHAIRMAN said that Bhutan, Malta and Samoa had become sponsors of the draft resolution.

2. Mr. ENGFELDT (Sweden) said that intensive consultations had been conducted on draft resolution A/C.3/46/L.43, with the aim of arriving at a substantive text which would command the broadest possible support in the Committee. As a result of those consultations, he proposed that in operative paragraph 3, the phrase from "Expresses its concern also" to "leaders and" should be deleted and the word "freely" should be inserted between "to participate" and "in the political".

3. Mr. LAPOUGE (France), speaking on behalf of the delegations of Belgium, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and his own delegation, said that those delegations fully supported draft resolution A/C.3/46/L.43 since it reflected their concern about the situation of human rights and fundamental freedoms in Myanmar. They would therefore join in a consensus or vote in favour of it. However, they noted with regret that the amendment to operative paragraph 3 deleted any reference to the continued deprivation of liberty of a number of democratically elected political leaders; because of their concern about the release of those leaders, they wished to withdraw their sponsorship of the draft resolution.

4. Mr. MIN (Myanmar) said that throughout its consultations with the Swedish delegation, his delegation had taken a constructive and reasonable attitude and had acted in good faith. His delegation felt strongly that there was no valid reason for the Committee to adopt a country-specific resolution on Myanmar. As everyone knew, his Government had been cooperating very closely with the Commission on Human Rights. The situation in Myanmar was being considered by the Commission under the confidential procedure provided for in Economic and Social Council resolution 1503 (XVIII) and his Government had willingly accepted visits to Myanmar by the independent experts appointed by the Chairman of the Commission. The independent expert appointed by the Chairman at the Commission's forty-seventh session, Professor Yozo Yokota of Japan, had visited Myanmar in October and would be submitting his report shortly to the Commission on the basis of his extensive discussions with the Myanmar authorities at a very high level. It was therefore quite inappropriate for the Committee to adopt the draft resolution, as it could pre-judge the contents of that report.

(Mr. Min, Myanmar)

5. The draft resolution was unbalanced and some parts of it were based on unsubstantiated and politically motivated allegations emanating from unsavoury anti-Government and anti-people elements who were in league with terrorist groups. It failed to reflect positive elements such as his Government's close cooperation with the Commission on Human Rights.

6. In connection with the first preambular paragraph, Myanmar adhered in good faith to the purposes and principles of the Charter and to the principles enshrined in the Universal Declaration of Human Rights; moreover, it abided by the legal principles pertaining to human rights which had come to be universally accepted as principles of customary international law. Although it was not yet a party to the International Covenants on Human Rights, it adhered to the principles therein that were derived from the Charter and the Universal Declaration. Provisions of the International Covenants which had not yet attained the status of general principles of customary international law could not be considered binding on non-States parties: to assert the contrary was to flout the established principles of the law of treaties.

7. It should be borne in mind that human rights were multidimensional and encompassed economic and social rights. It was therefore necessary to take into account all aspects of human rights, including the right to security, the right to live in peace and tranquillity and the right to shelter, clothing and food. In a developing country, economic and social realities dictated that basic human requirements must be given priority; if those basic needs were unfulfilled, the enjoyment of human rights by the common people would remain seriously wanting.

8. In July 1990, under Declaration No. 1/90, the State Law and Order Restoration Council had set forth a comprehensive programme on the political and constitutional process aimed at establishing a multiparty democratic State in Myanmar. All the political parties without exception had accepted that programme and it had been explained to the General Assembly by the Foreign Minister of Myanmar in a statement on 4 October 1991. The third preambular paragraph of the draft resolution was not a faithful reflection of that statement; instead, it purported to dictate to his Government how democracy should be established and constituted unacceptable interference in matters which fell within the domestic jurisdiction of Myanmar in accordance with Article 2, paragraph 7, of the United Nations Charter. A clear-cut line of demarcation must be drawn between human rights and the purely internal affairs of Member States; any linkage between those entirely different questions was totally unacceptable.

9. The fourth preambular paragraph passed judgement on the human rights situation in Myanmar without any justification. The main source of "information" was nothing but fabrications from sources he had already mentioned. The fifth preambular paragraph was totally unwarranted; the measure referred to had been taken in the wider interest of the State, for the sole purpose of upholding the rule of law and preserving public order and tranquillity. The Head of State in Myanmar had written to the

(Mr. Min, Myanmar)

Secretary-General explaining the full facts of the matter, and on two separate occasions the Foreign Minister of Myanmar had personally apprised the Secretary-General of the true situation. He wished to stress that certain individuals had been placed under restraint not for political reasons but because they had infringed the law; the legal action taken had been extremely lenient and had followed due process of law. Every Government had the responsibility to uphold the rule of law and maintain public order. It was a sacrosanct rule that decisions of courts of law in a Member State must not be called into question.

10. The draft resolution thus had in-built flaws that made it unacceptable to his Government. However, in the spirit of Myanmar's unbroken tradition of close cooperation with the United Nations ever since it had regained its independence, in deference to the sentiments of many delegations that had demonstrated good will and understanding towards Myanmar, and out of respect for the Chairman's appeal for cooperation, his delegation would not request a vote on draft resolution A/C.3/46/L.43. However, his delegation would not take part in the adoption of the draft resolution and would not be a party to it.

11. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt draft resolution A/C.3/46/L.43, as orally amended, without a vote.

12. Draft resolution A/C.3/46/L.43, as orally amended, was adopted without a vote.

13. Mr. SEZAKI (Japan) expressed appreciation for the flexible attitude taken by the sponsors and by Myanmar, which had made the adoption of the draft resolution possible without an acrimonious confrontation. The Swedish delegation had demonstrated a firm commitment to human rights issues. The adoption of the draft resolution without a vote clearly demonstrated the concern of the international community about the human rights situation in Myanmar. Although the Government of Myanmar had been trying to cooperate with the Commission on Human Rights and the Centre for Human Rights and had agreed to the visits of independent experts, much remained to be done. The Government of Myanmar must recognize the concerns of the international community and must respond to them in good faith.

The meeting was suspended at 3.50 and resumed at 4.40 p.m.

(b) HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued)

Draft resolution A/C.3/46/L.59

14. Mr. FONTAINE ORTIZ (Cuba) read out changes to the text of the draft resolution, as agreed after consultation among the sponsors. The eighth preambular paragraph would read:

> "Deeply convinced that United Nations action in this field should be based not only on a profound understanding of the broad range of problems existing in all societies and on full respect for the political, economic and social realities in each of them, in strict compliance with the purposes and principles of the Charter and for the basic purpose of promoting and encouraging respect for human rights and fundamental freedoms through international cooperation,"

A new preambular paragraph would be inserted after the twelfth preambular paragraph, to read:

> "Noting the recommendations of the Commission on Human Rights that the Preparatory Committee for the World Conference on Human Rights, being guided by a spirit of consensus, should make suggestions aimed at ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues in United Nations human rights forums,"

The fourteenth preambular paragraph would be deleted.

Operative paragraph 7 would end at the word "countries". Operative paragraphs 10 and 11 would be replaced by a paragraph reading:

> "Requests the Secretary-General to invite Governments, in responding to the request in operative paragraph 8 of Commission on Human Rights resolution 1991/79, to comment also on the present resolution in time for the transmission of their comments to the Preparatory Committee for the World Conference on Human Rights and the Regional Conferences for their consideration, including ways and means to strengthen United Nations action in this regard;"

Operative paragraph 12 would be amended to read:

> "Requests the Secretary-General to provide the Preparatory Committee for the World Conference on Human Rights with the United Nations documentation relevant to this resolution;"

15. He paid tribute to the extremely helpful contributions of the representative of Australia and hoped that the draft resolution would be adopted by consensus.

16. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt draft resolution A/C.3/46/L.59, as orally amended, without a vote.

17. Draft resolution A/C.3/46/L.59, as orally amended was adopted without a vote.

18. Mr. SKIBSTED (Denmark), speaking in explanation of vote on behalf of the five Nordic countries, said that those countries had joined in the consensus on the resolution on the understanding that neither the resolution as a whole nor any part thereof should be interpreted to mean that action for the protection of human rights constituted interference in the internal affairs of a State. In order to strengthen United Nations action in the field of human rights, it was of paramount importance to enhance the effectiveness of the Commission on Human Rights and its monitoring mechanisms.

19. Mrs. TEEKAMP (Netherlands), speaking on behalf of the 12 States members of the European Community, said that the Twelve had joined in the consensus on the resolution. However, from their point of view, neither the resolution as a whole nor any part thereof should be taken to imply that action to promote human rights and fundamental freedoms, as enshrined in Articles 55 and 56 of the Charter, could be seen as interference in the internal affairs of a State.

20. Mr. STUART (Australia) said that his delegation had been pleased to join in the consensus and thanked the representative of Cuba for his constructive contributions to the drafting process.

The meeting was adjourned at 5 p.m.